

2007 DRAFTING REQUEST

Bill

Received: **12/19/2007**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Tim Carpenter (608) 266-8535**

By/Representing: **Stuart Ewy**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **BAB**

Submit via email: **YES**

Requester's email: **Sen.Carpenter@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Prohibiting the use of cellular telephones and other wireless telecommunications devices while operating school buses and alternative vehicles

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	agary 01/04/2008	kfollett 01/08/2008	nmatzke 01/08/2008		mbarman 01/08/2008		
/1	agary 01/24/2008	kfollett 01/25/2008	rschluet 01/25/2008		sbasford 01/25/2008	sbasford 02/01/2008	

FE Sent For:

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/?	agary	1/11/08 1/8	nmh 1/8	nmh 1/8			

FE Sent For:

<END>

Gary, Aaron

From: Ewy, Stuart
Sent: Wednesday, December 19, 2007 3:31 PM
To: LRB.Legal; Gary, Aaron
Subject: Message for Aaron Gary Drafting Request

Hi Aaron-

I think this drafting request is in your area, but if not could you forward it to the appropriate person?

Senator Tim Carpenter would like a draft of a bill that would prohibit the use of a cellular telephone while operating a school bus (driving the bus, kids getting on and off the bus), except in an emergency situation. I think we can model this bill after Ark. Stat. Ann. Sec. 6-19-120, but use your discretion as to how this type of bill would best fit in Wisconsin statutes and note that the penalties are to be different than Ark. Also, a driver can use the phone in the bus if it is parked out of traffic (not just stopped), and no kids are getting on or off.

Tim would like the penalty for violating this statute should be a civil forfeiture of (\$200), except in the case of repeat offenders in which the civil forfeiture would be (\$500), and a suspension of right to drive a school bus for 6 months.

Please define cell phone use as broadly as possible, to include radio telephones, blackberries, CB radios, or anything that functions like one. No talking, no texting.

Also, specifically define emergencies in which a bus driver can use the phone regarding an emergency as calling for the purpose of communicating with any of the following situation: An emergency system response operator or 911 public safety communications dispatcher; A police department; A hospital or emergency room; An ambulance; or a fire department.

Let me know if you have any questions.

Regards,

G. Stuart Ewy
Office of Senator Tim Carpenter
State Capitol 306 S
608.266.8535

For reference: Ark. Stat. Ann. Sec. 6-19-120

(a) As used in this section:

(1) "Cellular telephone" means a wireless two-way communication device that requires the operator to dial numbers manually and that:

(A) Includes radio-telephone communications used in cellular telephone service, personal communication service, or the functional equivalent of a radio-telephone communications line used in cellular telephone service or a personal communication service; and

(2) "School bus" means every motor vehicle owned by a public school district or operated under contract for a

public school district and used for the transportation of children to or from school or school-sponsored activities.

(b) Except as provided in subsection (c) of this section, a person shall not operate a school bus while using a cellular telephone.

(c) This section does not apply to the use of a cellular telephone:

(1) For the purpose of communicating with any of the following regarding an emergency situation:

(A) An emergency system response operator or 911 public safety communications dispatcher;

(B) A hospital or emergency room;

(C) A physician's office or health clinic;

(D) An ambulance or fire department rescue service;

(E) A fire department, fire protection district, or volunteer fire department; or

(F) A police department;

(2) To call for assistance if there is a mechanical breakdown or other mechanical problem impairing the operation of the bus; or

(3) When the school bus is parked.

(d) A person who violates this section is guilty of an unclassified misdemeanor and may be fined not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).

in 1/4

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

- 1 AN ACT ...; **relating to:** the use of cellular telephones and other devices while
2 operating certain motor vehicles transporting children and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill generally prohibits a person operating a school bus or another vehicle transporting pupils from using a cellular telephone or other wireless telecommunications device while the school bus or other vehicle is on the roadway or loading or unloading passengers. This prohibition does not apply if a cellular telephone, or a wireless telecommunications device capable of real-time voice communications, is used to make an emergency "911" telephone call or communicate with specified emergency responders or service providers regarding an emergency situation. A person who violates this prohibition must forfeit \$200 for the first offense and \$500 for each subsequent offense. In addition, for the second or subsequent offense, the Department of Transportation must cancel the "S" endorsement, authorizing the operation of school buses, to the person's operator's license and the person may not reinstate the "S" endorsement to his or her operator's license for six months.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 343.20 (1) (d) 3. of the statutes is created to read:

1 343.20 (1) (d) 3. The department shall cancel an operator's license that is
2 endorsed for the operation of school buses under s. 343.12, regardless of the license
3 expiration date, upon receiving a record of conviction showing that the person has
4 been convicted of a violation of s. 346.94 (20) or a local ordinance in conformity with
5 s. 346.94 (20), if the person was previously convicted of a violation of s. 346.94 (20)
6 or a local ordinance in conformity with s. 346.94 (20). Upon cancellation of an
7 operator's license under this subdivision, the person may obtain from the
8 department, without charge, an operator's license that is not endorsed for the
9 operation of school buses and, after 6 months from the date of the license
10 cancellation, may apply for reinstatement of the endorsement authorizing the
11 operation of school buses.

12 **SECTION 2.** 346.94 (20) of the statutes is created to read:

13 **346.94 (20) USE OF CELLULAR TELEPHONES AND OTHER DEVICES WHILE OPERATING**
14 **CERTAIN VEHICLES TRANSPORTING CHILDREN.** (a) In this subsection:

15 1. "Alternative pupil transport vehicle" means a motor vehicle used to provide
16 pupil transportation services and that is being operated as an alternative method of
17 transportation under s. 121.555 (1) or is a motor bus being operated for purposes of
18 transporting pupils to or from curricular or extracurricular activities.

19 2. "Operate" has the meaning given in s. 343.305 (1) (c).

20 3. "Wireless telecommunications device" means any two-way radio or citizens
21 band radio or any personal digital assistant or other device while being used by the
22 device's operator to transmit verbal communications, electronic mail, text messages,
23 or any other electronic communication to one or more persons not physically present
24 with the device's operator, but does not include any global positioning system device
25 installed in or on a vehicle.

1 (b) 1. Except as provided in subd. 2., no person may operate a school bus or
2 alternative pupil transport vehicle on the roadway of a highway, or load or unload
3 passengers onto or from a school bus or alternative pupil transport vehicle, while
4 using a cellular telephone or other wireless telecommunications device.

5 2. Subdivision 1. does not apply to the use of a cellular telephone, or of any
6 wireless telecommunications device capable of real-time voice communications, to
7 make an emergency "911" telephone call or communicate with an emergency system
8 response operator, police department, fire department, ambulance or emergency
9 medical technician service, or hospital or emergency care facility regarding an
10 emergency situation.

11 **SECTION 3.** 346.95 (10) of the statutes is created to read:

12 346.95 (10) Any person violating s. 346.94 (20) shall forfeit \$200 for the first
13 offense and \$500 for each subsequent offense.

14 **SECTION 4. Effective date.**

15 (1) This act takes effect on the first day of the 3rd month beginning after
16 publication.

17 (END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3690/P1dn

ARG: *ef*

Date

ATTN: Stuart Ewy

Please review the attached draft carefully to ensure that it is consistent with your intent.

✓
"Cellular telephone or other wireless telecommunications device" is the term used in 2007 AB-464, which passed the assembly. This bill uses the same definition of "wireless telecommunications device" used in AB-464, as modified by AA1 to AB-464.

I believe that DOT cannot simply suspend an "S" endorsement to an operator's license. I have drafted this bill to require DOT to cancel the license and issue a new license without an "S" endorsement, while making the licensee eligible for reinstatement of the "S" endorsement after six months. I highly recommend that you consult with DOT as to whether this is the best procedure to use to eliminate a person's authorization to operate a school bus following a second violation of the cell phone prohibition in the bill.

I note that there is no time limit imposed in the bill for the higher second violation penalty to apply. Often statutes require the second violation to occur within a certain time period, such as three years, from the first violation.

I interpreted your instructions to mean that you did not want to include the mechanical breakdown exception appearing in the Arkansas statute. Please advise if I am mistaken.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3690/P1dn
ARG:kjf:nwn

January 8, 2008

ATTN: Stuart Ewy

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Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

Gary, Aaron

From: Ewy, Stuart
Sent: Thursday, January 24, 2008 2:12 PM
To: Gary, Aaron
Subject: RE: LRB 3690

Yes, thanks.

-Stuart

From: Gary, Aaron
Sent: Thursday, January 24, 2008 2:09 PM
To: Ewy, Stuart
Subject: RE: LRB 3690

Hi Stuart,

Do you also want the school bus endorsement canceled for a 2nd violation only if the 2nd violation occurs within 2 years?

Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Ewy, Stuart
Sent: Thursday, January 24, 2008 11:41 AM
To: Gary, Aaron
Subject: LRB 3690

Hi Aaron-

I read your drafters notes, and hopefully have some answers for you.

Please add that the second violation has to occur within two years of the first violation.

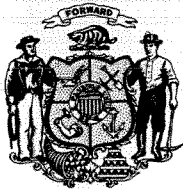
Everything else looks good. You interpreted correctly re mechanical breakdown -- the intent is that if there is a mechanical problem, the driver would have to pull over and stop "operating" the bus to get on a phone or radio and speak with either dispatch or a repair facility.

Please have this put into a "/1".

Thank you!

Regards,

G. Stuart Ewy
Office of Senator Tim Carpenter
State Capitol 306 S
608.266.8535



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3690/1

ARG:kjf:ntn

500m

m 1/24

KMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

- 1 AN ACT *to create* 343.20 (1) (d) 3., 346.94 (20) and 346.95 (10) of the statutes;
2 relating to: the use of cellular telephones and other devices while operating
3 certain motor vehicles transporting children and providing a penalty.

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8 department, without charge, an operator's license that is not endorsed for the
9 operation of school buses and, after 6 months from the date of the license
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*within the immediately
preceding
2 years*

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16 publication.

17 (END)

Duerst, Christina

From: Ewy, Stuart
Sent: Friday, February 01, 2008 11:00 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-3690/1 Topic: Prohibiting the use of cellular telephones and other wireless telecommunications devices while operating school buses and alternative vehicles

Please Jacket LRB 07-3690/1 for the SENATE.

Thank you very much

Regards,

G. Stuart Ewy
Office of Senator Tim Carpenter
State Capitol 306 S
608.266.8535